

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. 2:15-MD-02641DGC

**FIRST AMENDED SHORT FORM
COMPLAINT**

**DENISE SMITH, INDIVIDUALLY and
on behalf of the Estate of RONALD
SMITH**

Plaintiff(s) named below, for their Complaint against Defendants named below,
incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364)

Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

Ronald Smith

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of
consortium claim:

n/a

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
conservator):

Denise Smith; Representative

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at
the time of implant:

n/a

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

New York

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

New York

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Northern District of New York

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery[®] Vena Cava Filter

☐ G2[®] Vena Cava Filter

☐ G2[®] Express Vena Cava Filter

☐ G2[®] X Vena Cava Filter

☐ Eclipse[®] Vena Cava Filter

☐ Meridian[®] Vena Cava Filter

☒ Denali[®] Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

10/10/2013

12. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I: Strict Products Liability – Manufacturing Defect

☒ Count II: Strict Products Liability – Information Defect (Failure to Warn)

☒ Count III: Strict Products Liability – Design Defect

☒ Count IV: Negligence - Design

☒ Count V: Negligence - Manufacture

☒ Count VI: Negligence – Failure to Recall/Retrofit

☒ Count VII: Negligence – Failure to Warn

☒ Count VIII: Negligent Misrepresentation

☒ Count IX: Negligence *Per Se*

☒ Count X: Breach of Express Warranty

☒ Count XI: Breach of Implied Warranty

☒ Count XII: Fraudulent Misrepresentation

- 1 X Count XIII: Fraudulent Concealment
- 2 X Count XIV: Violations of Applicable New York (insert state)
- 3 Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade
- 4 Practices
- 5 ☐ Count XV: Loss of Consortium
- 6 ☐ Count XVI: Wrongful Death
- 7 ☐ Count XVII: Survival
- 8 X Punitive Damages
- 9 ☐ Other(s): _____ (please state the facts supporting
- 10 this Count in the space immediately below)
- 11 _____
- 12 _____
- 13 _____
- 14 _____
- 15 _____

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17 13. Jury Trial demanded for all issues so triable?

- 18 X Yes
- 19 ☐ No
- 20
- 21
- 22

1 RESPECTFULLY SUBMITTED this 22th day of May, 2018.

2 TAUTFEST BOND, PLLC

3 By: s/Monte Bond
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11 Attorney for Plaintiff

12 I hereby certify that on this 22nd day of May, 2018, I electronically transmitted
13 the attached document to the Clerk's Office for filing using the CM/ECF System filing and
14 transmittal of a Notice of Electronic Filing.

15 s/Monte Bond
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